

States for any such purpose, or in anywise in assistance thereof, or whenever any vessel of the United States which shall be found, or discovered to have been, employed, or attempted to be employed at any place, for any such purpose, or is anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

**(b) “Vessels of the United States” defined**

Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States.

**(c) Acts constituting prima facie evidence vessel engaged in smuggling**

For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempted to be employed to defraud the revenue of the United States.

(Aug. 5, 1935, ch. 438, title I, § 3, 49 Stat. 518.)

**§ 1704. Refusal or revocation of registry, enrollment, license or number on evidence that vessel engaging in smuggling; appeal; immunity from liability**

Subject to appeal to the Secretary of the Treasury and under such regulations as he may prescribe, when the Secretary of Transportation is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings of any vessel or the nature of any repairs made thereon, it is apparent to the Secretary of Transportation that such vessel has been built or adapted for the purpose of smuggling merchandise, the the<sup>1</sup> Secretary of Transportation shall revoke any endorsement on the vessel's certificate of documentation or number (when the Secretary is the authority issuing the number under chapter 123 of title 46) or refuse the same if application be made therefor, as the case may be. The Secretary of Transportation and all persons acting by or under his direction shall be indemnified from any penalties or ac-

tions for damages for carrying out the provisions of this section.

(Aug. 5, 1935, ch. 438, title I, § 4, 49 Stat. 519; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 103–182, title VI, § 689(b), Dec. 8, 1993, 107 Stat. 2222.)

AMENDMENTS

1993—Pub. L. 103–182, § 689(b)(4), substituted “The Secretary of Transportation and all persons” for “Such collector and all persons”.

Pub. L. 103–182, § 689(b)(3), which directed the substitution of “the Secretary of Transportation shall revoke any endorsement on the vessel's certificate of documentation or number (when the Secretary is the authority issuing the number under chapter 123 of title 46)” for “said collector shall revoke the registry, enrollment, license, or number of such vessel”, was executed by making the substitution in text which read “said vessel” rather than “such vessel”, to reflect the probable intent of Congress.

Pub. L. 103–182, § 689(b)(1), (2), substituted “when the Secretary of Transportation” for “whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered,” and “is apparent to the Secretary of Transportation” for “is apparent to such collector”.

TRANSFER OF FUNCTIONS

Coast Guard transferred to Department of Transportation and functions, powers, and duties, relating to Coast Guard, of Secretary of the Treasury and of other offices and officers of Department of the Treasury transferred to Secretary of Transportation by section 6(b)(1) of Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2), however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in section 3 of Title 14, Coast Guard. See section 108 of Title 49, Transportation.

All offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise in Bureau of Customs of Department of the Treasury to which appointments were required to be made by President with advice and consent of Senate ordered abolished, with such offices to be terminated not later than December 31, 1966, by Reorg. Plan No. 1, of 1965, eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317, set out as a note under section 1 of this title.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of those officers, agencies, and employees, by Reorg. Plan No. 26, of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Under the Plan, collectors of customs and Commandant of Coast Guard were officers of Department of the Treasury, but, in case of Coast Guard, and Commandant thereof, the Plan provided that, notwithstanding transfer of functions, Coast Guard should continue to operate as a part of Navy, subject to orders of Secretary of the Navy, in time of war or when President directed, as provided in sections 1 and 3 of Title 14, Coast Guard.

“Secretary of the Treasury” substituted in text for “Secretary of Commerce” and functions under this section relating to the numbering of vessels vested in Commandant of Coast Guard instead of collectors of customs on authority of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

**§ 1705. Destruction of forfeited vessel or vehicle**

Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any

<sup>1</sup> So in original.

court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law.

(Aug. 5, 1935, ch. 438, title I, § 5, 49 Stat. 519.)

**§ 1706. Importation in vessels under thirty tons and aircraft; licenses; labels as prima facie evidence of foreign origin of merchandise**

Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than thirty net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise.

(Aug. 5, 1935, ch. 438, title I, § 6, 49 Stat. 519.)

**§ 1706a. Civil penalties for trading without required certificate of documentation**

Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to a civil penalty of \$500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found on board such vessel, shall be prima facie evidence of the foreign origin of such merchandise.

(June 19, 1886, ch. 421, § 7, 24 Stat. 81; Aug. 5, 1935, ch. 438, title III, § 314, 49 Stat. 529; Pub. L. 96-594, title I, § 126(e), Dec. 24, 1980, 94 Stat. 3459.)

**CODIFICATION**

Section was not enacted as part of act Aug. 5, 1935, ch. 438, which comprises this chapter.

Section was classified to section 319 of the former Appendix to Title 46, Shipping, prior to the completion of the enactment of Title 46 by Pub. L. 109-304, Oct. 6, 2006, 120 Stat. 1485.

**AMENDMENTS**

1980—Pub. L. 96-594 substituted provisions relating to violations and penalties for employment in a trade of a

vessel entitled to be documented but not so documented for provisions relating to fines and penalties for trading without a license by a vessel twenty tons or upward, and struck out provisions respecting expiration of a license while a vessel is at sea.

1935—Act Aug. 5, 1935, provided for forfeiture, to deem marks, etc., prima facie evidence of foreign origin of merchandise, and to substitute “said fine or forfeiture” for “said fine of \$30” in last sentence.

**EFFECTIVE DATE OF 1980 AMENDMENT**

Pub. L. 96-594, title I, § 128, Dec. 24, 1980, 94 Stat. 3461, provided in part that the amendment made by Pub. L. 96-594 is effective on first day of eighteenth month following December 1980.

**§ 1707. Repealed. Pub. L. 104-295, § 3(a)(2), Oct. 11, 1996, 110 Stat. 3515**

Section, act Aug. 5, 1935, ch. 438, title I, § 7, 49 Stat. 520, required certificate for importation of alcoholic liquors in small vessels, provided for issuance of bond where liquor was destined for foreign port, and authorized penalties for failure to carry certificate unless lost, mislaid without fraud, defaced by accident, or incorrect by reason of clerical error or other mistake.

**EFFECTIVE DATE OF REPEAL**

Repeal of section applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as an Effective Date of 1996 Amendment note under section 1321 of this title.

**§ 1708. Repealed. Pub. L. 106-36, title I, § 1001(b)(6), June 25, 1999, 113 Stat. 132**

Section, act Aug. 5, 1935, ch. 438, title I, § 8, 49 Stat. 520, related to lading vessel in foreign port with liquor for importation.

**§ 1709. Definitions**

When used in this Act:

(a) The term “United States”, when used in a geographical sense, includes all Territories and possessions of the United States, except the Virgin Islands, the Canal Zone, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(b) The term “officer of the customs” means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

(c) The term “customs waters” means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement and, in the case of every other vessel, the waters within four leagues of the coast of the United States.

(d) The term “hovering vessel” means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the